

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

WARREN BERES, et al.,) **Nos. 03-785L, as Related to**
Plaintiffs,) **SCHROEDER (No. 04-1456L), RAY**
v.) **(No. 04-1457L), KLEIN (No. 04-**
THE UNITED STATES OF AMERICA,) **1458L), PETERSON (No. 04-**
Defendant.) **1459L), SPENCER (No. 04-1463L),**
) **NELSON (No. 04-1465L),**
) **MANNING (No. 04-1466L), LANE**
) **(No. 04-1468L), and COLLINS (No.**
) **04-1472L).**
) **Honorable Marian Blank Horn**

DECLARATION OF DONNA MARIE RAAB MATRINEZ

I, Donna Marie Raab Matrinez, declare as follows:

1. I am a United States citizen, a resident of the State of Washington, over the age of twenty-one, have personal knowledge of the facts stated here in and am competent to testify to the matters stated in this Declaration. I am one of the Plaintiffs in *Peterson v. United States*, No. 04-1459L.

2. My family purchased the property at issue in 1967. They had a home built which we moved into in 1968 when I was nine months old. I spent my entire childhood at that property. When I was 17, I started college at the University of

Washington in 1985 and lived in a sorority house. During my final year of college, I lived in apartments. Nevertheless, I came back to my parents property generally on weekends while in college. I am the only child and my friends would want to come to my parents' home on the lake. I graduated from college in 1990 and I moved back into my parents' home for two years. I married in 1993 and my husband and I moved back in to my parent's home in 1995 and remained there until 2015. I am well familiar with my family's use of the property from the 1970s until the property was sold in 2015.

3. I believed that my family owned the railroad right of way subject to the minimal use by the railroad. Our family used the entire railroad right of way in ways that should have been obvious to anyone who believed they might own the right of way. At no time did anyone challenge my family's ownership of the right of way that we used.

4. Attached hereto as Exhibit A is a copy of a drawing prepared by ESM Consulting Engineers. I met with Eric LaBrie from ESM on January 4, 2018 to explain to him the area of the right of way that my family used. Exhibit A generally depicts the area that we used as indicated. For instance, the area marked as "A" (referred to as Area A) is a place where my family had piled compost for eventual use in the garden. We used that area at least from the 1970s until we sold that property in 2015.

5. Immediately west of Area A, we had three different structures for curing compost. They were approximately six feet wide, six feet long and five feet high which were connected together. Attached as Exhibit B is a true and correct copy of a photograph which shows those compost structures. The compost structures were built in the late 1970s and used by my family until we sold the property in 2015.

6. Attached hereto as Exhibit C is a true and correct copy of three photographs with my dad and my daughters. Based on their ages, these photos were taken in about in 2005. The lower left photo shows a pile covered with black plastic tarp. This is the are where we stored compost after it cured in the structures mentioned above, from the late 1970s until we sold the property in 2015. On the left hand side of this photo, the compost structures can be seen in the background. Between the compost structures and the tarped pile behind my father, is the entrance to the garden which is marked on Exhibit A as Area B.

7. The pictures with the tractor show my dad discing the east side of the right of way with the tractor headed south. In the background, the fenced garden which my dad allowed neighbors, Jim and Billie Cairnes, to use for their garden can be seen. While I don't remember when they began using this area, it was at least from 1988 until to this day. The white flowering tree shown in both pictures is a white lilac which my parent planted in the 1970s. The plants shown to right of the white lilac are also trees and shrubs which my parents planted in the

1970s to act as a buffer from East Lake Sammamish Parkway which was and is a very busy roadway immediately behind these plants. They maintained all of this landscaping every year by watering, weeding, mulching and trimming. This is the area marked as Area C on Exhibit B.

8. The area marked as Area B is the area family's vegetable and flower garden was located. It was fenced in the 1970s and we used it for garden purposes every year until we sold the property in 2015. Attached hereto as Exhibit D is a true and correct copy of a photograph which shows this garden area and fence on the right hand side. On the far left, the picture shows corn growing in this area where we grew vegetables for over four decades.

9. The area marked in Exhibit A as Area D is an area which my family landscaped including a stone pathway to the garden. This was landscaping was there for as long as I can remember from the mid-1970s until the property was sold in 2015. This area was maintained, watered, weeded, trimmed and fertilized every year during this time frame.

10. The area marked as Area E is where we had a shed that was built before my parents purchased the property. (That shed collapsed during an ice storm in 1996). Area E also includes a carport, an office and a garage that were built prior to 1985. This was as an area which my family used constantly until we sold the property in 2015.

11. The area marked as Area F is where we have an underground water line that runs generally from the house to garden area in Area B. There is also a culvert and a French drain which drains the garden area under the railbed. The water system in the garden area, Area B, has sprinklers on seven foot high risers down one line, with a sprinkler approximately every 10 feet.

12. The area marked as Area G is where we had a greenhouse that was installed in the 1970s and rebuilt after the ice storm in December of 1996. It remained and was used until we sold the property.

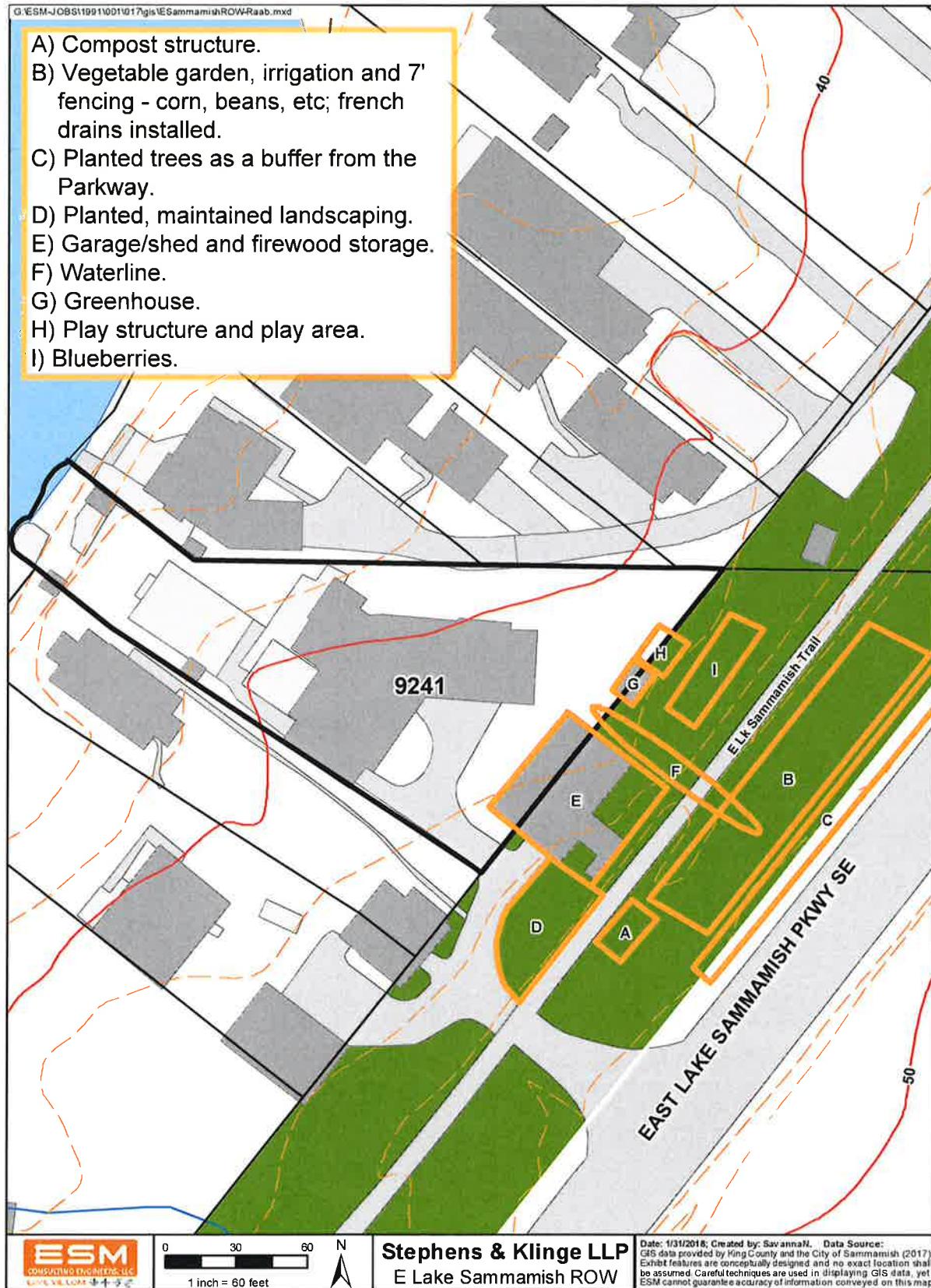
13. The area marked as Area H is where we had a play structure which I used as a child and my family maintained. It was later replaced in the mid-1990s for my children to use.

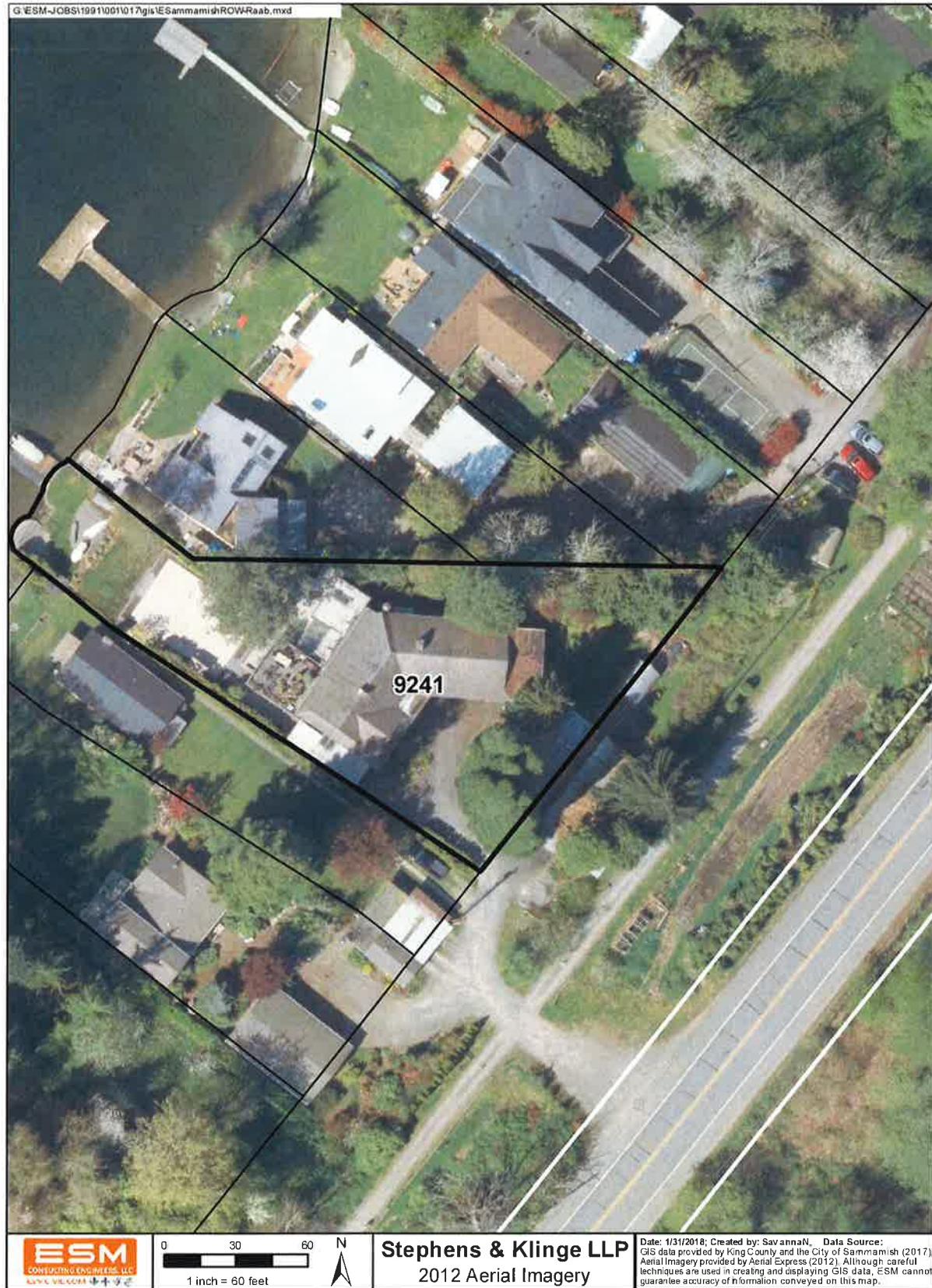
14. My family used the entire right of way for decades prior to 1998 and until we sold the property. This use was obvious to anyone who looked at the property and there was no portion of the right of way which we did not possess and use. No one ever claimed ownership until King County acquired rights to the right of way in 1998 and then, only the County claimed ownership.

I declare under penalty of perjury that the foregoing is true and correct and was executed by me on this 26th day of January, 2018 in Bellevue, Washington.



Donna Marie Raab Matrinez

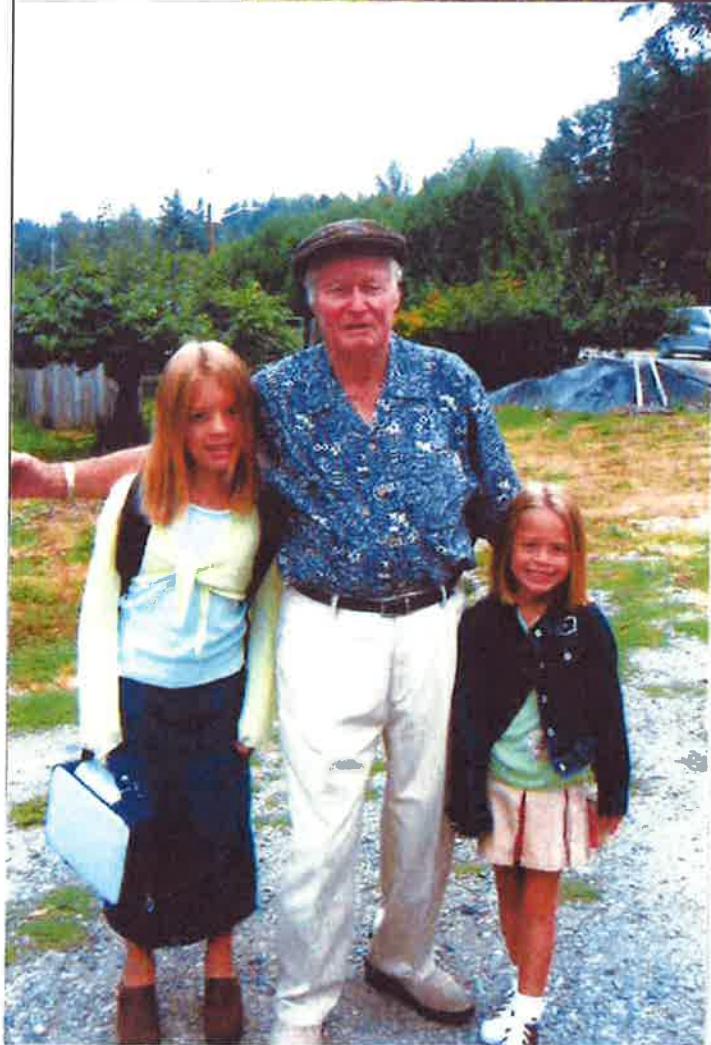




Ex. 10A-2



Ex. 10B



S&K 173

Ex. 10C



Ex. 10D